



MONTANA SECRETARY OF STATE

HB 428: Revise business filing with SOS
Senate Business/Labor, RM 422
March 18, 2011 @ 9 AM
Secretary Linda McCulloch's Testimony

- Good morning Mr. Chair, members of the committee. For the record, I'm Linda McCulloch, Montana Secretary of State. Thank you Representative Berry for bringing this legislation forward.
- House Bill 428 was created to protect legitimate Montana business owners from losing the authority to operate in the name of their choosing – and to provide a penalty to those who take advantage of loopholes in current law for the sole intent to deceive or harass another person.
- Small businesses are the heart and soul of Montana. More than 97% of the state's employers are classified as small business employers. Small businesses fuel our economy by providing necessary jobs, goods and services. They have a right to their business name.
- Under current law, any business operating in any name other than the owner's "true name" is required to file with the Secretary of State's Office.
- Our duties are strictly ministerial in relation to the registration of business names. We do not have the authority to reject any name that has not already been previously registered.
 - On the application form, the signer must swear and affirm that the facts on the form are true – including that the signer is registering a business name for a legitimate business. We cannot deny this affirmation of facts – which can, and has, negatively impacted a handful of small business owners.
- While the majority of name contests are between two legitimate businesses with legitimate concerns – malicious behavior does happen.
- One recent example: Party A registered a handful of business names for what later appeared to be for the sole intent to attempt to sell those names to Party B – a legitimate Montana business operating in a similar name.
- This bill maintains the duty for a small business to defend their interests in this type of situation. It protects their naming rights and provides counties the proper jurisdiction to bring forth penalties and civil actions against the malicious party.
- Protect the naming rights of Montana's small businesses. Vote "yes" for HB 428.